

### **EXAMINER'S AMENDMENT**

Claims 2-4, 6-7, 62-63, 67-68, 71, 76-77, 79-103 and 107-115 are allowed.

1. An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on July 29, 2008, Robert J. Follett requested an extension of time for one (1) MONTH and authorized the Director to charge Deposit Account No. 03-0060 the required fee of \$120 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Amend the specification as set forth on page 3 of this examiner's amendment.

*Begin amendment to the specification*

Please replace all previous insertions of the first sentence of the specification at page 1 with:

This application is a continuation of United States Patent Application No. 09/308,888, now abandoned, which is United States National Phase Application under 35 U.S.C. § 371 of PCT/EP97/06595 filed on November 26, 1997.

*End amendment to the specification*

***Reasons for allowance***

2. The following is an examiner's statement of reasons for allowance: see paragraphs 8 and 9 of the Office Action mailed April 1, 2003; see paragraphs 5 and 6 of the Office Action mailed February 10, 2006; applicants' amendments of January 11, 2008 and the July 17, 2008. Furthermore, Schwertfeger, US 6,475,561, discloses the pH limitation of the hydrogel of  $\geq 3$  for direct silylating the hydrogel as claimed. Schwertfeger '561 teaches away (claims 10-12) from pH  $\geq 3$  by acid modification and acid catalyst. Schwertfeger '561, furthermore, does not qualify as prior art since the applicants have perfected their priority with the papers filed November 21, 2005.

Schwertfeger et al, US 6,159,539, lacks the claimed step of mixing the hydrogel with the silylating agent. Schwertfeger '539 discloses solvent exchange prior to the silylating step, which results in other than the claimed hydrogel mixed with the silylating agent.

The prior art does not disclose or fairly suggest the claimed methods of making aerogels.

The PTO-1449 form filed 17 Sept. 2003 corresponds to a duplicate of a later filed IDS (12 Jan. 2004) that was considered. See paragraph 11 of the Advisory Action mailed 12 Dec. 2003 regarding the IDS filed 17 Sept. 2003 and paragraph 2 of the Office Action mailed 04 June 2004 regarding the IDS filed 12 Dec. 2003.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (571) 272-1089. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Daniel S. Metzmaier/  
Primary Examiner, Art Unit 1796**

DSM